

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: B. LANDA, et al.
Serial Number: 09/322,174
Filed: May 28, 1999
For: TONER MATERIAL AND METHOD UTILIZING SAME
Art Unit: 1753
Examiner: GOODROW, J.

Honorable Commissioner of Patents and Trademarks
Washington DC 20231

RESPONSE TO OFFICE ACTION

Sir:

Further to an office action dated October 3, 2000, the following is applicants' response:

REMARKS

The application contains claims 54-76. Claims 53, 59-60, 64, 67, 68, 72 are indicated by the Examiner as being withdrawn from consideration. Claims 54-58, 61-63, 65, 66, 69-71 and 73-76 are apparently rejected under 35 U.S.C. §103(a) as being unpatentable over Ray et al., in view of Chou, et al ('751).

With respect to the restriction requirement, applicants continue to note that the Examiner has not responded to applicants' traverse of the restriction requirement. While the Examiner has indicated that the second group of claims is withdrawn from consideration, he has not responded to applicants traverse.

Furthermore, the Examiner has listed claim 53 as being rejected. However, there no longer is any claim 53 (see new claims attached to the response to restriction requirement). Furthermore, claim 67, being dependent on claim 58, should not have been withdrawn and claim 76, being dependent on claim 72, should have been withdrawn (pending a response to the traverse.)

With respect to the rejection of the claims under 35 U.S.C. §103(a), the first page of the action indicates that the claims are allowed. However, it is clear from the second page that the Examiner intended to reject the claims and that the listing on page 1 is in error. As corrected, it appears that the Examiner is rejecting claims 54-58, 61-63, 65, 66, 69-71 and 73-76.

In any event, applicants respectfully traverse the rejection.

Applicants submit that the present rejection does not constitute a *prima facie* case of unpatentability. In particular, claim 54 contains the limitation that the "flakes of metal arc



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